

HOUSE BILL No. 1048

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12-43.5; IC 32-21-1.5; IC 33-42-2-11.

Synopsis: Property tax deductions for contract purchasers. With respect to a contract for the purchase of a single family residence that is not prepared by an attorney or a licensed real estate agent, provides that: (1) the notary public who notarizes the contract must provide to the contract purchaser information prepared by the department of local government finance concerning the availability of property tax deductions; and (2) the contract is valid only if the contract is notarized.

Effective: Upon passage.

Cheatham

January 5, 2010, read first time and referred to Committee on Financial Institutions.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1048

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-12-43.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 43.5. (a) For purposes of this section:**

(1) "benefit" refers to a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, 34, 34.5, 37, or 37.5 of this chapter; and

(2) "contract" refers to a contract that:

(A) is for the purchase of a single family residence; and

(B) is not prepared by:

(i) an attorney; or

(ii) a real estate agent licensed under IC 25-34.1.

(b) Before notarizing a contract after June 30, 2010, a notary public must provide to the contract purchaser the form referred to in subsection (c).

(c) Before July 1, 2010, the department of local government finance shall prescribe the form to be provided by notaries public



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to contract purchasers under subsection (b). The department shall make the form available to notaries public, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit; and

(B) list the eligibility criteria for each benefit; and

(2) on the other side:

(A) indicate each action by and each type of documentation from the contract purchaser required to file for each benefit; and

(B) indicate sufficient instructions and information to permit a party to terminate a standard deduction under section 37 of this chapter on any property on which the party or the spouse of the party will no longer be eligible for the standard deduction under section 37 of this chapter after the party or the party's spouse begins to reside at the property that is the subject of the contract, including an explanation of the tax consequences and applicable penalties if a party unlawfully claims a standard deduction under section 37 of this chapter.

(d) A notary public:

(1) may reproduce the form referred to in subsection (c); and

(2) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) A notary public to which this section applies shall document the notary public's compliance with this section with respect to each contract notarization in the form of verification of compliance signed by the contract purchaser.

(f) A notary public is subject to a civil penalty of twenty-five dollars (\$25) for each instance in which the notary public fails to comply with this section with respect to a contract purchaser. The penalty:

(1) may be enforced by the secretary of state in the same manner that the secretary of state enforces the payment of fees due under IC 33-42-2-1(f); and

(2) shall be paid into the state general fund.

(g) A notary public is not liable for any other damages claimed

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by a contract purchaser because of the notary public's mere failure to provide the appropriate document to the contract purchaser under subsection (b).

(h) The secretary of state shall:

(1) examine notaries public to determine compliance with this section; and

(2) impose and collect penalties under subsection (f).

SECTION 2. IC 32-21-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 1.5. Requirement to Notarize Contract

Sec. 1. As used in this chapter, "contract" refers to a contract that:

(1) is for the purchase of a single family residence; and

(2) is not prepared by:

(A) an attorney; or

(B) a real estate agent licensed under IC 25-34.1.

Sec. 2. A contract executed after June 30, 2010, is valid only if the contract is notarized.

SECTION 3. IC 33-42-2-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.** Before notarizing a contract (as defined in IC 6-1.1-12-43.5(a)(2)) after June 30, 2010, a notary public must comply with IC 6-1.1-12-43.5.

SECTION 4. An emergency is declared for this act.

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